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TAGS: [PREL](#) [PGOV](#) [PTER](#) [GR](#)
SUBJECT: CONVICTED NOVEMBER 17 TERRORIST RELEASED FROM
PRISON

REF: A. ATHENS 00942
[1](#)B. 05 ATHENS 1775
[1](#)C. 04 ATHENS 3870
[1](#)D. ATHENS 00885

This message is sensitive but unclassified, please protect accordingly.

[1](#)1. (SBU) Summary: Convicted November 17 terrorist, Nikos Papanastasiou, was released from prison on July 19 for "health reasons." Papanastasiou was sentenced to eight years imprisonment for "setting up and participating in a criminal group," for his affiliation with the November 17 terrorist organization. To date, the N17 organization has claimed responsibility for twenty-one murders, including the killings of a CIA Athens station chief, a U.S. Navy captain, a U.S. defense attach, a Turkish diplomat, and a British defense attach. Papanastasiou is the third convicted November 17 terrorist to be granted an early release from prison on health grounds, possibly indicating a worrisome trend. End summary.

PAPANASTASIOU RELEASE COULD SIGNIFY A TREND

[1](#)2. (U) On December 17, 2003, Nikos Papanastasiou, now 54 years old, was sentenced to eight years imprisonment for "setting up and participating in a criminal group" (the November 17 terrorist organization). Despite having only partially served his sentence, Papanastasiou was released from prison on July 19 on health grounds. (Note: Papanastasiou was convicted of being affiliated with N17, but was acquitted for homicide charges associated with the attempted murder of American Sergeant Richard Judd, and the murders of patrolman Chistos Matis, newspaper publisher Nikos Momferatos, and Momferatos' driver Panayiotis Rousetis. End Note). The Judicial Council, a panel of senior judges that deals mainly with procedural issues and questions relating to sentencing in closed session, granted Papanastasiou's early release despite objections from the prosecutor. Because Papanastasiou is the third N17 prisoner to be granted early release based on health grounds, it is conceivable that a potential trend is emerging that could continue to impact other "non-serious" (convicted of 5-8 years on conspiracy or related charges) N17 prisoners (reftels A, B, and C).

PROSECUTOR OBJECTS TO RELEASE

[1](#)3. (SBU) The Piraeus First Instance Court Judicial Council accepted Papanastasiou's application for conditional release, despite the prosecutor's objections, because he had served 3/5 of his sentence working in prison (one work day in prison counts for two), he has (undefined) "health problems," and he had "demonstrated good behavior while detained." (Note: In

Greece, the prosecutor traditionally has remained silent or responded favorably to "non-serious" terrorist early release applications. This prosecutor's objection is obviously a departure from the prevailing attitude, yet it would be premature to interpret it as a significant shift in the overall disposition of prosecutorial authorities toward "secondary" terrorist suspects and/or convicted terrorists. End note.)

BACKGROUND ON JUDICIAL COUNCIL'S LENIENCY

14. (U) The Judicial Council issues verdicts that are not part of the public record, unlike judicial rulings in regular courts. The Council focuses on issues related to the Code of Criminal Procedure and rules on various aspects of applying sentences, including cases such as Papanastasiou's where a convicted person seeks relief from the continuing application of his/her sentence by claiming various extraordinary circumstances, possible new and potentially exonerating evidence, and/or grounds of good behavior. The Council does not conduct a trial and does not address and/or weigh substantive issues relating to the crime of which a person is convicted. Instead, it deals with the letter of law and assesses whether the Code of Criminal Procedure has been faithfully applied; in cases of petitions for relief (for example, health grounds), the Council focuses on whether various favorable legislative loopholes and other fine print in the law may be applied. Theoretically, the Greek judiciary does not respond to government pressure and is considered "politically neutral."

POTENTIAL TREND TO IMPACT "SERIOUS OFFENDERS?"

15. (U) In contrast to Papanastasiou's "non-serious"

conviction, N17 mastermind Alexandros Yiotopoulos and top hit-man Dimitris Koufodinas received (non-consecutive) multiple life sentences for their "more serious" convictions on December 17, 2003. Savvas Xyros, one of N17's main gunmen whose arrest led to the unraveling of the terrorist group, has been denied conditional release on health grounds despite his suffering from serious health problems. However, even these lifetime sentences do not guarantee true lifetime punishment in Greece, as Greece's historical practice is to have prisoners serve 20-25 years of a life sentence before being released (reftel D).

16. (SBU) Comment: While Papanastasiou's early release appears to be the beginning of a worrying trend, it is premature to interpret the release as proof that the December 2003 N17 convictions are completely unraveling with widespread releases (including Yiotopoulos and Koufodinas) soon to follow. Papanastasiou's release could be attributed to many converging factors including legislation favoring convicts who have received relatively short sentences and subsequently become model prisoners; the relatively lenient tradition of Greek courts when reviewing petitions for relief lodged by such prisoners; an astute defense strategy knowing how to capitalize on "trial fatigue" (referring to the on-going, laborious N17 appeals trial); and, last but not least, the unceasing labors of leftwing human and political rights groups, with a long tradition of defending terrorist suspects, anarchists, and other "anti-authority militants." On the other hand, because Papanastasiou is the third N17 prisoner to have been released early on health grounds (preceded by Konstantinos Telios and Pavlos Serifis), there may be credence to an "attrition theory" suggesting that the Greek judicial system will incrementally consent to the early releases of all "non-serious" N17 terrorists (convicted of 5-8 years on conspiracy or related charges). Given the nature of N17's crimes, however, this is disturbing, to say the least.

RIES